

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

R. ALEXANDER ACOSTA,)	
Secretary of Labor,)	FILE NO. 2:18-cv-3268-RMG
United States Department of Labor,)	
)	
Plaintiff,)	
)	
v.)	
)	
)	
SEÑOR TEQUILA, INC., d/b/a Señor Tequila)	
Mexican Restaurant and Cantina; SEÑOR)	
TEQUILA OF SUMMERTOWN, LLC, d/b/a)	<u>C O M P L A I N T</u>
Señor Tequila Mexican Restaurant and Cantina;)	
SANDRA VILLALPANDO; and JAIME)	
VILLALPANDO;)	(Injunctive Relief Sought)
)	
Defendants.)	

Plaintiff R. Alexander Acosta, Secretary of Labor, United States Department of Labor (“Plaintiff”) brings this action pursuant to § 17 of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201, et seq., hereinafter the “Act”, to have Defendants Señor Tequila, Inc., Señor Tequila of Summerville, LLC, Sandra Villalpando, and Jaime Villalpando (hereinafter referred to collectively as “Defendants”) enjoined from violating the provisions of §§ 6, 7, and 11 of the Act; and, pursuant to § 16(c) of the Act, 29 U.S.C. § 216(c), to recover unpaid wages, together with an equal amount as liquidated damages.

I

This Court has jurisdiction over this action pursuant to §§ 16(c) and 17 of the Act and 28 U.S.C. §§ 1331 and 1345.

II

A. Defendant Señor Tequila, Inc., doing business as “Señor Tequila Mexican Restaurant and Cantina”, at all times hereinafter mentioned, has been a corporation having a place of business and doing business at 612 Coleman Boulevard, Mount Pleasant, South Carolina and at 1836 Ashley River Road, Charleston, South Carolina.

B. Defendant Señor Tequila of Summerville, LLC, doing business as “Señor Tequila Mexican Restaurant and Cantina”, at all times hereinafter mentioned, has been a corporation having a place of business and doing business at 9730 Dorchester Road, Suite 110, Summerville, South Carolina.

C. Defendant Sandra Villalpando, an individual doing business in Charleston County, South Carolina, at all times hereinafter mentioned, has been an Owner of the aforesaid businesses operated by Senor Tequila, Inc. and Senor Tequila of Summerville, LLC, and has acted directly or indirectly in their interest in relation to their employees, and therefore is an employer within the meaning of § 3(d) of the Act, 29 U.S.C. § 203(d).

C. Defendant Jaime Villalpando, an individual doing business in Charleston County, South Carolina, at all times hereinafter mentioned, has been an Owner of the aforesaid businesses operated by Senor Tequila, Inc. and Senor Tequila of Summerville, LLC, and has acted directly or indirectly in their interest in relation to their employees, and therefore is an employer within the meaning of § 3(d) of the Act, 29 U.S.C. § 203(d).

III

At all times hereinafter mentioned:

A. Defendants, engaged in related activities performed either through unified operation or common control for a common business purpose, constitute an enterprise within the meaning of § 3(r) of the Act, 29 U.S.C. § 203(r); and

B. Such enterprise, employing employees engaged in commerce or in the production of goods for commerce, or employees handling, selling or otherwise working on goods or materials that have been moved in or produced for commerce; and having an annual gross volume of sales made or business done of not less than \$500,000 (exclusive of excise taxes at the retail level which are separately stated), constitutes an enterprise engaged in commerce or in the production of goods for commerce, within the meaning of § 3(s)(1)(A) of the Act, 29 U.S.C. § 203(s)(1)(A).

IV

From September 4, 2014 through September 1, 2017, at all three restaurant locations listed above, Defendants repeatedly and willfully violated the provisions of §§ 7 and 15(a)(2) of the Act, 29 U.S.C. §§ 207 and 215(a)(2), by employing employees in an enterprise engaged in commerce or in the production of goods for commerce, for workweeks longer than 40 hours without compensating such employees for their employment in excess of such hours at rates not less than one and one-half times the regular rates at which they were employed.

V

From September 4, 2014 through September 1, 2017, at all three restaurant locations listed above, Defendants repeatedly and willfully violated the provisions of §§ 6 and 15(a)(2) of the Act, 29 U.S.C. §§ 206 and 215(a)(2), by failing to pay employees employed in an enterprise engaged in commerce or in the production of goods for commerce, the applicable minimum hourly rate.

VI

From September 4, 2014 through September 1, 2017, at all three restaurant locations listed above, Defendants, employers subject to the provisions of the Act, repeatedly violated the provisions of §§ 11(c) and 15(a)(5) of the Act, 29 U.S.C. §§ 211(c) and 215(a)(5), and Regulations found at 29 C.F.R. § 516 by failing to make, keep and preserve adequate and accurate records of the persons employed and of the wages, hours and other conditions and practices of employment maintained by them, as prescribed in the aforesaid Regulations.

VII

WHEREFORE, cause having been shown, Plaintiff prays for Judgment:

A. Pursuant to § 17 of the Act, 29 U.S.C. § 217, permanently enjoining Defendants, their agents, servants, employees and all persons in active concert or participation with them from violating the provisions of §§ 6, 7, 11(c), 15(a)(2), 15(a)(3), and 15(a)(5) of the Act;

B. Pursuant to § 16(c) of the Act, 29 U.S.C. § 216(c), awarding back wages for a period of three years prior to the commencement of this action (plus any time period tolled by agreement of the parties) and an additional equal amount as liquidated damages to employees (as named in Appendix "A" attached hereto and made a part hereof and such other employees as hereafter may be identified and named prior to or at trial);

C. And for such other and further relief as may be necessary and appropriate including costs of this action.

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